

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL JOHN PISKANIN, JR.,	:	CIVIL ACTION NO. 1:17-CV-827
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
COMMONWEALTH OF	:	
PENNSYLVANIA DEPARTMENT	:	
OF CORRECTIONS, JOHN	:	
WETZEL, TAMMY FERGUSON,	:	
GERRY CASNER, JAMES B.	:	
MARTIN, MARIA GORBA, RONALD	:	
PERELMAN, PENNSYLVANIA	:	
BOARD OF PROBATION AND	:	
PAROLE AND SECRETARY,	:	
HONORABLE KELLY L. BANACH,	:	
HEATHER GALLAGHER,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 7th day of June, 2017, upon preliminary consideration of plaintiff's civil rights action pursuant to 42 U.S.C. §§ 1983, 1984, 1985, 1986, and 1988, (Doc. 1),¹ in which he seeks to proceed *in forma pauperis* (Docs. 2, 4), see 28 U.S.C. § 1915, and the court finding that the "three strikes" provision of the Prison Litigation Reform Act of 1996 ("PLRA"), codified at 28 U.S.C. § 1915(g), prohibits him from proceeding *in forma pauperis* because he has had three prior actions or

¹ Plaintiff is a state inmate presently incarcerated at the State Correctional Institution at Benner Township, Bellefonte, Pennsylvania.

appeals dismissed as frivolous, malicious, or for failing to state a viable claim,² and it being evident that there is no indication that plaintiff “is under imminent danger of

² The following recitation was set forth in a report and recommendation of former United States Magistrate Judge Malachy E. Mannion, now United States District Court Judge, and adopted by the undersigned in Piskanin v. FBI, No. 1:12-0909, 2012 WL 4050181, *1 (M.D. Pa. Aug. 8, 2012):

Plaintiff has filed three or more actions in federal court which have been dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Specifically, in Piskanin v. Banach, et al., 2008 WL 5246165 (E.D. Pa. 2008), plaintiff’s amended complaint was dismissed for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii). Plaintiff then appealed this ruling to the United States Court of Appeals for the Third Circuit. Piskanin v. Hamer, 269 Fed. Appx. 159 (3d Cir. 2008). The Third Circuit affirmed the district court’s ruling and dismissed the appeal as frivolous. Id. at 162. Plaintiff then filed another action alleging that he was “former operative” for the Federal Bureau of Investigation and that he was entitled to FBI “protection” from numerous public officials who allegedly have engaged in retaliatory acts, including his criminal prosecution. Piskanin v. John Doe, 2009 WL 1684651 (E.D. Pa. 2009). The district court dismissed this action as frivolous. Id. On appeal, the Third Circuit affirmed the district court opinion that the action should be dismissed as frivolous. Piskanin v. John Doe, 349 Fed. Appx. 689 (3d Cir. 2009). Plaintiff then filed a third complaint, which the District Court for the Western District of Pennsylvania dismissed pursuant to the three strikes rule, or 28 U.S.C. § 1915(g). Piskanin v. PA Department of Corrections, et al., 2010 WL 3834845 (W.D. Pa. 2010). Finally, plaintiff filed a fourth complaint, which was dismissed by the District Court for the Middle District of Pennsylvania for failure to state a claim upon which relief could be granted. Piskanin v. Commonwealth of Pennsylvania, et al., 2010 WL 4362458 (M.D. Pa. 2010).

serious physical injury,”³ 28 U.S.C. § 1915(g) (setting forth the three strikes rule which provides that an inmate who has three prior actions or appeals dismissed as frivolous, malicious, or for failing to state a viable claim may not proceed *in forma pauperis* “unless the prisoner is under imminent danger of serious physical injury”); see also Abdul-Akbar v. McKelvie, 239 F.3d 307, 312 (3d Cir. 2001) (*en banc*) (finding that the plaintiff must allege facts showing that he was in imminent danger at the time the complaint was filed and that allegations that he faced imminent danger in the past are not sufficient to trigger the exception to section 1915(g)), it is hereby ORDERED that:

1. Plaintiff’s motion (Doc. 4) for leave to proceed *in forma pauperis* filed on May 22, 2017 is DENIED.
2. Plaintiff’s motion (Doc. 2) for leave to proceed *in forma pauperis* filed on May 10, 2017 is DISMISSED as an improper form.
3. Plaintiff’s complaint (Doc. 1) is DISMISSED without prejudice, pursuant to 28 U.S.C. § 1915(g).

³ Plaintiff, who identifies himself as a “Federal Law Enforcement Operative Contractor Employee” (“FLEOCE”), alleges that defendants Commonwealth of Pennsylvania, Department of Corrections, and the Bureau of Probation and Parole are the “Murder Inc.” arm of organized crime and are responsible for at least five (5) murders related to plaintiff’s case and have attempted to murder plaintiff. (Doc. 1, ¶¶ 2, 4). Plaintiff alleges that defendants are interfering with his right to practice religion and, upon his death, defendants will not contact a priest to administer last rites and will not honor his funeral and burial requests. (*Id.* at ¶¶ 26-32). He alleges that defendants have subjected him to cruel and unusual prison conditions, including a cell that is too small, that he is being denied proper medical care, and that defendants are interfering with his right to access the courts by failing to provide adequate legal supplies. (*Id.* at ¶¶ 33-34, 39-40). Plaintiff further alleges that he has served his full sentence and is entitled to immediate release and, moreover, that he is entitled to “federal officer immunity.” (*Id.* at ¶¶ 35-37).

4. The Clerk of Court is directed to CLOSE this case.
5. Any appeal from this order is DEEMED frivolous and not in good faith.
See 28 U.S.C. § 1915(a)(3).

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania